

**Testimony of Congressman Billy Long (MO-07)
Before the House Energy and Commerce
Subcommittee on Environment and the Economy
Wednesday June 27, 2012**

**Legislative Hearing on "The Superfund Common Sense Act" and "The Increasing
Manufacturing Competitiveness Through Improved Recycling Act of 2012"**

First off I would like to thank Chairman Shimkus, and Ranking Member Green and all of the Subcommittee Members for allowing me to testify this morning.

Last year I introduced a bill which would exempt livestock operations from Comprehensive Environmental Response, Compensation, and Liability Act, or CERCLA, regulation. The bill, HR 2997, or the Superfund Common Sense Act, would also exempt livestock operations from Emergency Planning and Community Right-to-Know Act (EPCRA) reporting requirements.

Livestock producers, along with other small businesses, face increasing regulatory uncertainty, much of it stemming from potential or proposed Environmental Protection Agency (EPA) rules. Our nation's livestock producers and our agricultural industry as a whole cannot afford to comply with unnecessary regulations.

The CERCLA law, which as we know created the Superfund, was enacted by Congress in 1980 because of the Love Canal incident. The law was never meant to regulate livestock manure, but activists may use ambiguities in the law to create new livestock operation regulations. My bill clarifies that the reporting requirements under CERCLA and EPCRA will not apply to animal manure or its emissions. It does not make sense to lump tens of thousands of farms and livestock producers under the same severe liability provisions that apply to the nearly 1,300 federal Superfund toxic waste sites. My bill will provide more certainty for producers and more common sense to these laws.

If EPA does not choose to exempt cattle operations from release reporting obligations, the operations may be required to file a daily report with federal, state and local emergency responders. Additionally, measuring ammonia from open air beef cattle feedlots is impractical since there is no pipe or other way to measure ammonia emissions directly. Because ammonia is dispersed in the air before measurement, the wind speed and direction, air pressure and temperature all affect

the emission. Measuring this emission depends on capturing the whole “cloud” or air sample in a specific time and space. This would require all kinds of instruments upwind and downwind from the source, much like a complete set of meteorological instruments measuring wind speed, direction, pressure and the like. Since these instruments could only measure concentrations at relatively few points in an air space of varying size and shape over short periods of time, large errors are likely and the data would be unreliable. These are supposed to be livestock operations, not small weather stations.

Annual continuous release reports may be an option, but because emissions from open air beef cattle operations also vary widely depending on climate, feed, weather, age of cattle, and many other variables, there is no guarantee the reports would be useful since the emissions are obviously not continuous or stable. A continuous release is by the law’s definition “a release that occurs without interruption or abatement or that is routine, anticipated, and intermittent and incidental to normal operations or treatment processes.” The release must also be “stable in quantity and rate,” which means that it is “predictable and regular in the amount and rate of emission.”

Finally, neither ammonia nor hydrogen sulfide is a regulated hazardous air pollutant under the Clean Air Act.

I introduced my bill in September of 2011. When the EPA was asked for comment, an EPA spokeswoman stated the following in an October 20, 2011 Energy and Environment Daily article - "This one joins the growing list of myths being perpetuated about EPA rules." She added - "It's unfortunate that time is being spent on solving a perceived problem that doesn't exist."

In the next day’s Federal Register, the following was printed - EPA is currently in the process of developing a rulemaking to amend reporting requirements for livestock operations on air emissions under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 103 and (Emergency Planning & Community Right-to-Know Act) EPCRA section 304.

Also, a November 8, 2011 Congressional Research Service report stated that the EPA anticipates it will propose a new or revised rule regulating livestock waste in 2012.

Mr. Chairman, I would also like to mention that the United States Department of Agriculture has also gotten out of control with regulations. I have had constituents

of mine threatened with large fines and confiscation of property because their small rabbit breeding operation was considered illegal. This kind of regulatory overreach does not reflect self-governance, which is a fundamental principle of our nation. Where does the individual citizen go to vote out an abusive regulator or overbearing bureaucrat? Where is that ballot box? It is time for us, the United States Congress, to reclaim much of the authority we have surrendered to the Executive Branch bureaucracy. The Federal Government's job is not to stifle economic growth and intimidate the American people. The constituents I mentioned earlier only wanted to breed rabbits and be left alone in peace, but instead they were punished by an expensive and time consuming-process brought on by ridiculous regulations.

I would also like to point out what happened in Illinois last August. At a town hall meeting President Obama held in Atkinson, Illinois, a local corn and soybean farmer asked the President about more possible EPA regulations covering dust, noise and water runoff. The President said that "folks in Washington like to get all ginned up" about things that aren't necessarily happening. He then instructed the gentleman to contact the USDA. One reporter followed this direction and called the USDA. After several phone calls and referrals to various agencies, including the Illinois Department of Agriculture and the Illinois Farm Bureau, an answer was not found.

I again want to thank you, Chairman Shimkus and Ranking Member Green, along with Members of the Subcommittee for allowing me to testify today. I look forward to working with you on this common-sense solution.